COMMENTS ON THE ILLINOIS MEDICAID 1115 WAIVER

On behalf of the law firm of Popovits and Robinson, we submit the following comments on the Illinois Medicaid Program's proposal for a comprehensive waiver under the authority of Section 1115 of the Social Security Act (the "1115 Waiver"). Although we appreciate the aims of the proposed 1115 Waiver being to rebuild and expand the Illinois Medicaid Program's home and community-based infrastructure, develop integrated delivery systems through implementation of patient-centered health homes, increase the focus on prevention, primary care and wellness to take responsibility for population health, and build a 21st century health care workforce equipped to practice in integrated, team-based settings, we find that the draft waiver concept paper fails to identify specific strategies for expanding behavioral health care services for the Illinois Medicaid population. While we recognize that integration of behavioral health care and primary health care is essential to achieve the Triple Aim of health care reform, we contend that the existing behavioral health care system that treats Medicaid recipients must first be made more robust. To this end, we request that the State's application for a 1115 Waiver provide specific action items identifying the Illinois Medicaid Program's plan for expanding behavioral health care services as it pledges to do pursuant to Pathway #1B of the concept paper.

HOME AND COMMUNITY BASED INFRASTRUCTURE, COORDINATION AND CHOICE

A. Housing

We are agree that more must be done in the context of treating Medicaid clients to provide individuals with supportive housing and assistance with securing gainful employment upon reintegration into the community. This is yet another area in which the community behavioral health care field has significant expertise. However, in order to ensure the provision of supportive housing assistance, the State needs to take steps to incentivize treatment providers, particularly primary health care providers, to offer these services in addition to the many other treatment services they already provide. Although the concept paper proposes that the State will expand access to supportive housing through capital funding for supporting housing projects, we believe more must be done to ensure that enough providers are offering this assistance to consumers. To that

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end, we urge the State to review and reevaluate existing Medicaid rates to ensure that providers are paid appropriately based on current costs of providing treatment in 2013 and beyond. We recognize that this waiver must be budget neutral, however we also urge the State not to consider these issues in a vacuum and to explore all possible avenues for improving the Medicaid program in Illinois.

DELIVERY SYSTEM TRANSFORMATION

A. Patient-Centered Care

We also want to stress the experience that the community-based behavioral health care system has in terms of providing patient-centered, integrated care to Medicaid clients in particular. Patient-centered care is a primary focus of the concept paper and it is important that the State recognize the breadth of expertise community mental health and substance use disorder treatment providers have in this regard. Community mental health and substance use disorder treatment providers across the state regularly provide mentally ill and addicted adults and adolescents with essential wrap-around services that meet clients' individualized needs and ensure appropriate follow-up services are provided to clients to facilitate long-term recovery. Such services include linkage, aftercare, recovery home services, case management and supportive housing services. Given this, we strongly urge the State to consult community mental health and substance use disorder treatment providers on this issue to ensure that the Illinois Medicaid program develops a model of care that emphasizes coordination and communication and collaboration and team management. Most importantly, we encourage the State to continue to work with community mental health and substance use disorder treatment providers that know and understand the Medicaid population and are capable of coordinating seamless transitions of care for these complex clients.

Furthermore, given the prevalence of mental illness and substance use disorders among Medicaid clients, including newly eligibles, as well as the importance of effectively treating these folks in community settings in order to avoid the high and unnecessary costs associated with treating behavioral health issues in

hospital settings, we advise the State to focus its resources on strengthening patient-centered, integrated care in the context of behavioral health specifically.

B. Nursing Home Services

We have significant concerns about the proposals contained in the concept paper for transforming the Medicaid delivery system. Specifically, we have received numerous comments from other community mental health and substance use disorder treatment providers throughout the State regarding the focus being placed on nursing home services in the 1115 Waiver proposal, particularly in Pathway #2 of the concept paper. We would like to stress our position that nursing home services for individuals with mental illness or substance use disorders are not and have never been the appropriate venue for their successful rehabilitation. As made clear by the State itself in the concept paper, Illinois ranks in the top quintile nationally on the number of licensed nursing home beds per thousand persons aged 65 years and older. Although the concept paper makes the statement that Illinois has made substantial progress in recent years toward rebalancing its long-term services and supports and offering community-based alternatives, we disagree. The State continues to promote treatment of mental illness in nursing home settings, as illustrated by the creation of Specialized Mental Health Rehabilitation Facilities ("SMHRFs") in the State's Medicaid expansion bill, Senate Bill 26. The bill, now law, provides for the provision of mental health services including crisis stabilization, recovery services and transitional living services by nursing homes. This care delivery model effectively promotes institutionalization of those with mental illness instead of preferencing community-based mental health treatment when available. We know that community-based treatment for individuals with behavioral health issues produces better results, promotes long-term recovery and ultimately saves the State money. Therefore, if the State does in fact seek to develop and expand its home and community-based services, the State should make clear that community-based treatment for individuals with mental illness or substance use disorders is always preferable to treatment in an institutional setting. The 1115 Waiver concept paper fails to make clear this policy position alleged by the State and should therefore be revised.

C. Increased Focus on Substance Use Disorder Treatment

Generally, we are disappointed with the failure of the State to address substance use disorder treatment in the 1115 Waiver proposal. We know that substance use disorder treatment services are absolutely critical due to the comorbidity of substance use disorders and other chronic illnesses. Moreover, the cost of treating common disease is significantly higher when a patient has untreated behavioral health problems, such as substance abuse. For example, the cost of treating hypertension is twice as much and the cost of treating coronary heart disease is three times as much.[1] Therefore, we strongly encourage the state to reexamine both the prevalence of substance use disorders among Medicaid clients, particularly among the projected newly eligible population, as well as the importance of substance use disorder treatment services in ensuring population health management. We think that such failure by the State to adequately address substance use disorder treatment in the 1115 Waiver proposal is discriminatory and in direct violation of the federal parity law. Now that the final federal parity regulations have been issued, it is essential that the state ensure appropriate compliance with the federal parity law.

WORKFORCE

Regarding the State's plan for addressing workforce issues pursuant to the 1115 Waiver proposal, it appears that the focus is almost exclusively on primary care. However, it is essential that the Illinois Medicaid Program take steps to build and expand its behavioral health care workforce given the estimated number of newly eligible Medicaid beneficiaries that will require mental health and substance use disorder treatment services. It is especially important that the State's 1115 Waiver proposal include specific recommendations aimed at increasing the number of psychiatrists, particularly child psychiatrists, in areas of the State where there is currently an insufficient number of such professionals. Additionally, the State should include in the 1115 Waiver proposal a plan for expanding the Medicaid telemedicine program so that in areas where there does not exist a sufficient number of psychiatrists and other specialists, telemedicine can be used to ensure individuals

[1] *Robert Wood Johnson February 2011 Policy Brief in Mental Disorder and Medicaid Comorbidity*.

receive the treatment they need. We agree that the reinstatement of a loan repayment program would appeal greatly to individuals contemplating entry into the behavioral health care field. However, we also contend that the existing behavioral health care workforce could be expanded through revisions to the State certification and licensure requirements, particularly for substance use disorder professionals. To this point, the 1115 Waiver proposal should include in its workforce training plan a focus on educating health care providers about the benefits of revising certification and licensure requirements to allow individuals committed to various fields of health care to provide services to individuals in need.

GENERAL COMMENTS

A. IMD Exclusion

We concur with IADDA's recommendations regarding the Institutions for Mental Disease ("IMD") exclusion. As Illinois moves to implement the Affordable Care Act ("ACA"), the IMD exclusion looms as a significant limitation for persons requiring Level III.5 residential care for substance use disorders. This exclusion of a clinically defined level of care will seriously impact recovery, have a negative impact on other systems (i.e. criminal justice, child welfare, hospital emergency departments) and will escalate costs in the longer term when persons are denied this critical level of care. Access to residential treatment will be severely limited, as many inpatient substance use disorder treatment facilities cannot meet the IMD criteria requiring fewer than 16 beds. This diminished access to care will significantly erode one of the primary goals of the ACA, being the expansion of access. Persons may be forced to seek treatment in a much higher cost hospital setting. In addition, the IMD exclusion presents a parity issue since for no other health conditions are Medicaid services provided in certain institutions excluded from coverage. Therefore, we recommend that the State seek a waiver of the IMD exclusion within the consolidated 1115 Waiver proposal.